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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/757,649 | 01/14/2004 | David R. Bloch | O004.PAT-3 | 3937 |
| 7590 | 06/01/2004 | | EXAMINER | |
| Emery L. Tracy P.O. Box 1518 Boulder, CO 80306-1518 | | | PARSLEY, DAVID J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3643 | |

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/757,649 | BLOCH, DAVID R. | |
| | Examiner | Art Unit | |
| | David J Parsley | 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains more than 150 words.

Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claim 2 is objected to because of the following informalities: "the line of force" in line 2 should be - -a line of force- -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to whether the means for aligning or the line of force are offset over the pivot point.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to whether the stop mechanism in claim 4 is the same or a different stop mechanism from the one claimed in parent claim 1.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,901,397 to Pursell et al.

Referring to claims 1-2 and 7-8, Pursell et al. discloses a bone/ribcage spreader device for spreading the bones/ribcage of a game animal, the device comprising, a first arm/bone contacting

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means – at 3 or 17, having a first end and a second end, the second end having a first protrusion – proximate 23 or 25, and a second protrusion – at 19 or 21, surrounding a first recessed area – see figure 1, the first arm having a straight portion and an angled portion – see figure 1, a second arm/bone contacting means – the other of 3 or 17, having a first end and a second end, the second end having a first protrusion – proximate 23 or 25, and a second protrusion – at 19 or 21, surrounding a second recessed area – see figure 1, a stop mechanism – at 12-14, formed on the second arm, the stop mechanism contactable with the first arm – see figure 1, and a pivot point – at 11, at the first end of the first arm and the first end of the second arm rotatably connecting the first arm to the second arm – see figure 1. Further the limitations of wherein the bones/ribcage to be spread are positioned within the recessed portion of the first arm and the second arm such that upon rotation of the first arm and the second arm relative to each other until the stop mechanism contacts the first arm, the first arm and the second arm releasably lock thereby maintaining the bone/ribcage within each recessed portion, constitutes functional language defining the apparatus claim by the method of its use and therefore adds no further structural limitations and thus these limitations have not been considered, see *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528,531 (CCPA 1959) and MPEP section 2114. Pursell et al. further discloses means for aligning the line of force between the second ends of the first arm and the second arm offset over the pivot point – see for example at 5, 15,23,25,27 in figure 1.

Referring to claims 13-14, Pursell et al. discloses a method for spreading the bones/ribcage of a game animal or livestock, the method comprising, providing a first member – at 3 or 17, providing a second member – at 3 or 17, pivotally connecting the first member to the second member – see at item 11 in figure 1, contacting a first bone with the first member – see

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figure 4, contacting a second bone with the second member – see figure 4, pivoting the first member in a general direction away from the second member – see figure 4 and columns 2-3, and aligning the line of force between the first bone and the second bone over the pivot point between the first member and the second member – see for example figures 1-4 and columns 2-3, wherein the first member has a first protrusion – proximate 23 or 25 and a second protrusion – at 19 or 21, surrounding a first recessed area – see figure 1, and the second bone member has a first protrusion – proximate 23 or 25, and a second protrusion – at 19 or 21, surrounding a second recessed area – see figure 1, the first bone receivable within the first recessed area and the second bone receivable within the second recessed area – see for example figures 1-4 and columns 2-3.

Referring to claims 3, 9 and 15, Pursell et al. discloses the means for aligning includes a straight portion on the first arm adjacent the first end – see proximate 5 or 15 in figure 1, and an angled portion – proximate 23 or 25, on the first arm adjacent the second end – see for example figure 1.

Referring to claims 4, 11 and 16, Pursell et al. discloses a stop mechanism – at 12-14, formed on the second arm positioned adjacent the first end of the second arm substantially between the pivot point – at 11, and the first end – see figures 1-4, for inhibiting the rotation of the first arm relative to the second arm when the straight portion of the first arm is substantially aligned with the second arm – see for example figures 1-4 and column 3.

Referring to claims 5, 10 and 17, Pursell et al. discloses means for releasably locking the first arm relative to the second arm – see at items 3 and 17 proximate item 27 in figures 1-4.

Referring to claims 6, 12 and 18, Pursell et al. discloses a plurality of apertures formed along the first and second arms – see at 11, 12, 14 and proximate 23 and 25 in figure 1.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to carcass spreader devices in general:

U.S. Pat. No. 2,270,857 to De Moss – shows spreader device

U.S. Pat. No. 2,747,321 to Thompson – shows spreader device

U.S. Pat. No. 5,087,019 to Peabody et al. – shows ribcage spreader device

U.S. Pat. No. 5,360,368 to Hajek – shows ribcage spreader device

U.S. Pat. No. 5,707,281 to Hicks – shows ribcage spreader device

U.S. Pat. No. 6,059,649 to Ballard – shows ribcage spreader device

U.S. Pat. No. 6,199,828 to Komperud – shows spreader device

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

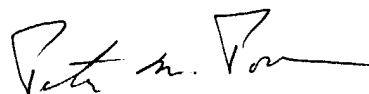
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley
Patent Examiner
Art Unit 3643



PETER M. POON
SUPERVISORY PATENT EXAMINER

5/26/04